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LAKE MINNETONKA COMMUNICATIONS COMMISSION

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Before the
Federal Communications Commission
Washington, D.C. 20554

DEEPHAVEN

EXCELSIOR

GREENWOOD

INDEPENDENCE

LONG LAKE

LORETTO

MAPLE PLAIN

MEDINA

MINNETONKA
BEACH

MINNETRISTA

ORONO

ST. BONIFACIUS

SHOREWOOD

SPRING PARK

TONKA BAY

VICTORIA

WOODLAND

In the Matter of)

Annual Assessment of the Status of)
Competition in the Market for the)
Delivery of Video Programming)

MB Docket No. 06-189

Comments of the Lake Minnetonka Communications Commission a Joint Powers Agreement of 17 Minnesota cities, Deephaven, Excelsior, Greenwood, Independence, Long Lake, Loretto, Maple Plain, Medina, Minnetonka Beach, Minnetrista, Orono, St. Bonifacius, Shorewood, Spring Park, Tonka Bay, Victoria and Woodland.

These comments are filed by the Lake Minnetonka Communications Commission in support of the comments filed by the National Associations of Telecommunications Officers and Advisors ("NATOA"), the National League of Cities ("NLC"), the National Association of Counties ("NACo"), the United States Conference of Mayors ("USCM"), and other national municipal organizations. Like the national municipal organizations, the Lake Minnetonka Communications Commission representing 17 cities believes that local governments want and encourage competition in the video programming marketplace. The local franchising process works and helps to ensure that all residents share in the benefits that increased competition brings to a community.

Our community previously filed Comments in the franchising proceeding, MB Docket No. 05-311, the Implementation of Section 621 (a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992. Because this Notice of Inquiry raises many of the same issues that were addressed by our earlier Comments, we are attaching a copy of those Comments for inclusion in this proceeding.

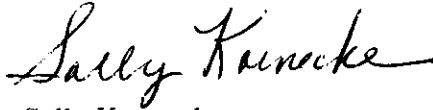
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The local cable franchising process functions well in the Lake Minnetonka Communications 17 city area and it ensures that our communities' specific needs are met and that local customers are protected. While we applaud efforts to increase competition in the video programming marketplace, the Commission should do nothing to impair the operation of the local franchising process as set forth under the existing federal regulatory scheme. The local cable franchising process should not be used as an excuse for the failure of new cable service providers to enter into the marketplace.

Respectfully Submitted,

Lake Minnetonka Communications Commission

A handwritten signature in cursive script that reads "Sally Koenecke".

By: Sally Koenecke
Executive Director
4971 Sunset Drive
Spring Park, MN 55384

November 20, 2006

Attachment



LAKE MINNETONKA COMMUNICATIONS COMMISSION

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In the Matter of

Implementation of Section 621(a)(1) of

the Cable Communications Policy Act of 1984

as amended by the Cable Television Consumer

Protection and Competition Act of 1992

MB Docket No. 05-311

Comments of The Lake Minnetonka Communications Commission a Joint Powers Agreement of 17 Minnesota cities, Deephaven, Excelsior, Greenwood, Independence, Long Lake, Loretto, Maple Plain, Medina, Minnetonka Beach, Minnetrista, Orono, St. Bonifacius, Shorewood, Spring Park, Tonka Bay, Victoria and Woodland.

These Comments are filed by The Lake Minnetonka Communications Commission in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"), the Alliance for Community Media ("Alliance"), and other national organizations representing local government interests. The 17 member cities of The Lake Minnetonka Communications Commission believe that local governments can issue and appropriate local franchises for new entrants into the video services field on a timely basis. We wish to inform the Commission about the benefits of cable franchising and the Public, Educational and Government Access ("PEG") services in our community.

Cable Franchising in Our Community

Community Information

The Lake Minnetonka Communications Commission is a Joint Powers Agreement of 17 cities. Our franchised cable provider is Mediacom LLC. Our community has negotiated cable franchises since 1983.

Our Current Franchise

Our current (renewed) franchise began on September 22, 1998 and expires on September 22, 2013.

Our franchise requires the cable operator to pay a franchise fee to the Lake Minnetonka Communications Commission in the amount of 5% of the cable operator's gross revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational and governmental ("PEG") access channels on the cable system. We currently have 2 channels devoted to government programming, 2 channels devoted to educational programming and 1 channel devoted to public access programming.

The franchise requires that PEG channels be supported in the following ways by the cable operator. The operator collects from subscribers a PEG fee of Fifty Cents (\$.50) per month per subscriber for the support of PEG programming. The PEG fees are used for the purchase of production equipment to videotape city council, city planning and fire district meetings as well as for community programming from non-profit organizations and individual residents. The cable company also provided an initial capital expenditure for production equipment in 1983.

Our franchise contains the following institutional network ("I-Net") requirements: The cable company shall reserve capacity equivalent to four fibers for future non-commercial use by institutions within the LMCC franchise area at a cost determined by a specified formula.

The cable incumbent also provides cable free of charge to our member city halls and to other government public works buildings and schools.

PEG Access Services

The Lake Minnetonka Communications Commission has provided access services in our community for twenty-three (23) years. The number of access channels we operate is five (5). In our most recently completed fiscal year, The Lake Minnetonka Communications Commission provided 870 hours of new original local programming to the cable subscribers. The community used our equipment and facility 1358 times for 5913 hours of use. Below are the highlights of our services to the community:

- * Streaming video from our Government Channel 8 accessed through our www.lmcc-tv.org WEB site for viewing on the internet.
- * Archiving of city council meetings (13 cities), Lake Minnetonka Conservation District meetings, LMCC meetings and other special meetings for "VOD" on our website.
- * Gavel-to-gavel production of government meetings for 13 communities including city council meetings, some planning and fire district meetings, the Communications Commission meetings and the Lake Minnetonka Conservation District Meetings. The LMCC provides the production equipment and a contracted video producer for these meetings.
- * Dedicated channel capacity (5 channels) for Government, Educational and Public Access Programming.
- * Master control function for all playback of government and community programming on the channels with program schedules on the WEB, on the channels and in the newspapers.
- * Video bulletin board with text and graphics for community announcements for 17 communities.
- * Provide a fully-equipped television production studio, two digital editing suites, field equipment and remote van for the production of PEG programming by staff and certified (have completed workshops) community residents.
- * Collaborative community/ staff-produced television programming for non-profit community organizations such as senior citizens, health groups, environmental groups, chambers of commerce, people with disabilities, League of Women Voters, etc. (Attachment A)
- * Capability for live telethons and other live programming. Have collaborated on telethons to raise \$60,000 plus dollars for senior citizens and disability (Westonka MDA) funding needs.
- * Staff-produced community monthly news program "Lakeside News 12" with news of the 17 communities. Also regularly produced staff programs with our city administrators ("Tonka Report") and state legislators ("Capital Update").

- * Videotaped and aired town hall meetings with Congressional Representative, Jim Ramstad. (Attachment B)
- * On-location van productions of local youth/highschool sports, concerts, community events and festivals.
- * Television production workshops for local residents.
- * Support to local schools in the implementation of equipment for videotaping school board meetings and other school programming. The LMCC has aired board meetings for 3 school districts.
- * Technical design, installation and maintenance support to cities and schools.
- * Local political coverage of elections and candidate debates.
- * Site for college and technical school internships.
- * Newsletter and WEB site promotion and distribution of information.
- * Cable company rents studio facility to produce programming to inform residents of local cable information and services.

The Franchising Process

In 1983, fourteen (14) cities worked together to issue a cable franchise for the cable company by forming a Joint Powers entity. Since then three more communities have joined the Lake Minnetonka Communications Commission. This allowed the company to quickly obtain franchises in these communities so as to be able to serve a large region.

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process - to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

Competitive Cable Systems

The Lake Minnetonka Communications Commission was approached once on April 18, 2000 by Wide Open West, a competitive provider, to express interest in building another cable plant. They requested the city members of the Commission provide them with the numbers of single family homes, multi-dwelling units and the number of residential street miles with each city. The LMCC cities did provide this information to Wide Open West. The company chose not to enter into any formal discussions as they did not feel that this area could support two cable systems.

The LMCC also was defeated in an Effective Competition Petition to the FCC. The incumbent provider was awarded Effective Competition status as the information they provided was deemed by the FCC to prove that the company had Effective Competition from satellite services.

The Lake Minnetonka Communications Commission has formed a committee to investigate the feasibility of wireless internet. The committee attended the NATOA 2005 Conferences covering wireless internet and visited the City of Chaska, Minnesota who is providing municipal wireless internet. The LMCC also attained a bid from a wireless consultant to provide a study of wireless feasibility in the area. On January 12, 2006 the Commission held a meeting for all city administrators and mayors to listen to presentations by the City of Minneapolis and the City of St. Louis Park describe their plans to provide wireless internet to their residents. The Commission has mailed a survey to all attendees to determine a next step in the provision of wireless internet to its seventeen member city residents. The Commission also invited the neighboring cities of Wayzata, Chanhassen, Mound and Waconia as well as the incumbent cable provider to the wireless internet meeting. The Commission would welcome participation by these neighboring cities to expand wireless internet to a broader area. The cable company is not now available to many of our residents because of its semi-rural nature. The LMCC believes wireless internet provided by the cities or by a wireless internet provider would help to close the digital divide.

The Lake Minnetonka Communications Commission also invited the Lake Area Emergency Management group, which has an almost identical footprint to the LMCC 17 communities, to a meeting on January 24, 2006 to discuss possible collaboration on the implementation of wireless internet and emergency management functions. The LMCC plans to investigate various government grants to facilitate emergency communications using the LMCC Community Television facility and our "live to channel" functions and possible wireless internet capabilities in the future.

Conclusions

This NPRM is only looking retrospectively at one aspect of the franchising process. The LMCC believes that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each communities' local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.

The local cable franchising process has functioned well in the Lake Minnetonka Communications Commission seventeen (17) member cities. As the above information indicates, we are experienced at working with cable providers, the local franchising authority, and community interests to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local communities' specific needs are met and that local customers are protected.

Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations. **This is a critical tool in community development and dissemination of local government and educational information.**

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of primarily local interest.

Local Franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be

available to meet local needs. These factors are equally present for new entrants as for existing users.

The Lake Minnetonka Communications Commission therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law.

The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests. **This is a service that cities and citizens have found to promote participation in city events and community building. This puts city council representatives and positive role models of the democratic process on television in front of our youth on a daily basis. This also puts local youth on television in school sports, concerts, plays and many other activities that younger children can aspire to, which may be lacking in nationally distributed cable programming.**

The nation would be well served by a policy of "Community Reinvestment" through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the communities' property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and youth programming;
3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Respectfully submitted,

Lake Minnetonka Communications
Commission

A handwritten signature in cursive script, reading "Sally Koenecke".

By: Sally Koenecke, LMCC Executive
Director

4071 Sunset Drive, Spring Park, MN 55384

cc: Congressional Representative Jim Ramstad
National Association of Telecommunications Officers and Advisors
Alliance for Community Media